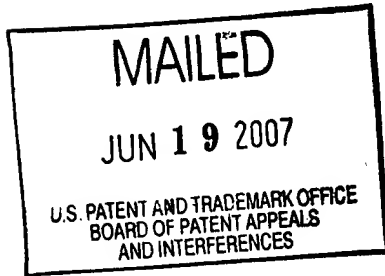


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte YVES RAMANZIN

Application 09/989,248

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 11, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

The content under the heading "**SUMMARY OF CLAIMED SUBJECT MATTER**" contained in the Appeal Brief filed on September 22, 2006 does not provide a sufficient summary of the independent claims involved in the appeal, which, for each independent claim involved in the appeal, shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. *See* 37 CFR § 41.37(c)(1)(v). In particular, the appellant did not map

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the claims to the specification. Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Also, the Appeal Brief filed September 22, 2005 reveals that the following required sections are missing:

“EVIDENCE APPENDIX” as set forth in 37 CFR § 41.37(c)(1)(ix)

“RELATED PROCEEDINGS APPENDIX,” as set forth in 37 CFR § 41.37(c)(1)(x)

Further, the Examiner's Answer mailed on January 24, 2006, stated under the Evidence Relied Upon section, page 2, that “No evidence is relied upon by the examiner in the rejection of the claims under appeal.” A review of the file reveals that prior art was applied to the Rejections on appeal. See the Grounds of rejection on page 3 of the Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

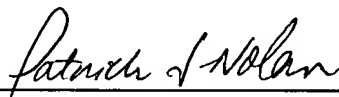
(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

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Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on September 22, 2005, defective;
- 2) notify appellant to file a Supplemental Appeal Brief incorporating the Summary of Claimed Subject Matter as required by 37 CFR 41.37(c)(1)(v), the Evidence Appendix" as set forth in 37 CFR § 41.37(c)(1)(ix) and the "Related Proceedings Appendix," as set forth in 37 CFR § 41.37(c)(1)(x) ;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplemental Brief.
- 4)) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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Deputy Chief Appeals Administrator
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PJN/gjh

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